

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its Own Motion as to the Propriety of the Rates and Charges Set Forth in the Following Tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on August 27, 1999, to become effective on September 27, 1999, by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts

DTE 98-57

MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION

AT&T Communications of New England, Inc. ("AT&T") hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D. Specifically, AT&T requests that the attachments to its response to Record Request Number 26 be kept confidential, as they contain competitively sensitive and proprietary information. AT&T is willing to provide this information to any party that has entered into a confidentiality agreement with AT&T, pursuant to the terms of such agreement.

#### I. Legal Standard.

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

The Department has recognized that competitively sensitive information is entitled to protective status. See, e.g., Hearing Officer's Ruling On the Motion of CMRS Providers for Protective Treatment and Requests for Non-Disclosure Agreement, D.P.U. 95-59B, at 7-8 (1997) (the Department recognized that competitively sensitive and proprietary information should be protected and that such protection is desirable as a matter of public policy in a competitive market).

#### II. Argument.

The information contained in the attachments to AT&T's response to Record Request Number 26 is competitively sensitive, proprietary, and confidential. The attachments consist of information that reveals the location of end offices where AT&T has

Untitled

collocation facilities. As Bell Atlantic pointed out in its own Motion for Confidential Treatment filed on October 22, 1999, "[w]here carriers choose to establish collocation arrangements or situate their POTs not only identifies where their facilities are located, but more importantly may provide valuable insight into where their customers reside or where they are focusing their competitive marketing efforts, thereby giving competitors an unfair business advantage." See Bell Atlantic's Motion for Confidential Treatment, D.T.E. 98-57, at 3 (October 22, 1999). Significantly, in an Order dated November 5, 1999, the Department agreed with Bell Atlantic and ruled that the location of collocation arrangements is confidential and competitively sensitive information. See Hearing Officer Ruling on Motion for Confidential Treatment by Bell Atlantic-Massachusetts, D.T.E. 98-57, at 5 (November 5, 1999). Based on this, the Department allowed that part of Bell Atlantic's motion pertaining to the protection of information relating to the location of collocation facilities.

Conclusion.

For these reasons, AT&T requests that the Department grant protection from public disclosure of this confidential, competitively sensitive information submitted in this proceeding, in accordance with G.L. c. 25, § 5D.

Respectfully submitted,

AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

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Dated: January 21, 2000.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served upon the attorney of record for each other party by mail on January 21, 2000.

